

REMARKS

Claims 28, 29, 31-34, 36, 37, 46, 47, 49-52 and 54-60 are pending in the present application. In a Final Office Action mailed June 10, 2004, the Examiner rejected all pending claims. Since prosecution is now closed, Applicant submits herein a Request for Continued Examination under 37 CFR 1.114, including a submission consisting of an amendment to the claims which Applicant now asserts patentably distinguish the invention over the cited prior art.

1. NON-PRIOR ART MATTERS

- (a) The Office Action noted a failure to comply with 37 CFR 1.121(c).

The current amendment satisfies the objection.

- (b) The Office Action rejected claims 29, 47, 57 and 58 under 35 USC 112, first paragraph, as failing to comply with the written description requirement.

Claims 29 and 47 have been amended herein to claim that at least one of the plurality of upper mixing members engages the lower support member as the second stirring apparatus is rotated. Support for this amendment may be found in the originally filed application at page 17 lines 4-9.

Claim 57 is herein canceled.

Claim 58 is amended herein to claim wiping slurry from the lower support member with the upper mixing members. Support for this amendment may be found in the originally filed application at page 17 lines 4-9.

- (c) The Office Action rejected claims 28, 29, 31-34, 36, 37, 46, 47, 49-52, 54, 55, and 58 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 28 and 46 are amended herein to claim "a top cover" and "the top cover" instead of "the upper member."

Claims 29 and 47 have been amended herein to claim that at least one of the plurality of upper mixing members engages the lower support member as the second stirring apparatus is rotated. Support for this amendment may be found in the originally filed application at page 17 lines 4-9.

Claim 58 is amended herein to claim wiping slurry from the lower support member with the upper mixing members. Support for this amendment may be found in the originally filed application at page 17 lines 4-9.

2. PRIOR ART MATTERS

- (a) The Office Action rejected claims 28, 31-33, 36, 37, 46, 49-51, 54, 55, 56, 59 and 60 under 35 USC 102(b) as being anticipated by McCleary et al. Applicant respectfully traverses this rejection.

A single prior art reference anticipates a claimed invention only if it discloses each and every claim element.

As to claim 28, McCleary does not disclose: at least one of the lower mixing members fully engaging the side wall as the second stirring apparatus is rotated to remove slurry from the side wall. As seen in Fig. 2 of McCleary, there is a relief 25 between the teeth 26 and the wall 24 in the 55 degree arc of rotation. Thus, the teeth 26 do not fully engage the wall 24. The importance of the difference has been previously pointed out at page 18 of the Amendment filed April 1, 2004.

Claim 28 is therefore allowable.

Claims 31-33, 36, and 37 contain additional elements or limitations beyond allowable claim 28 and are also allowable.

As to claim 46, McCleary does not disclose: at least one of the lower mixing members fully engaging the side wall as the second stirring apparatus is rotated to remove slurry from the side wall. As seen in Fig. 2 of McCleary, there is a relief 25 between the teeth 26 and the wall 24 in the 55 degree arc of rotation. Thus, the teeth 26 do not fully engage the wall 24. The importance of the difference has been previously pointed out at page 18 of the Amendment filed April 1, 2004.

Claims 49-51, 54, and 55 contain additional elements or limitations beyond allowable claim 46 and are also allowable.

As to claim 56, McCleary does not disclose wiping slurry from the lower support member with the upper mixing members. As seen in Fig. 1, the pins 18a etc. do not come close to the lower support 17.

Claims 59 and 60 contain additional elements or limitations beyond allowable claim 56 and are also allowable.

- (b) The Office Action rejected claims 34 and 52 under 35 USC 103(a) as being unpatentable over McCleary. Applicant respectfully traverses the rejection.

The Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the Examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of non-obviousness.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Applicant respectfully traverses the § 103 rejection because the office action has not established a prima facie case of obviousness.

Claims 34 and 52 contain additional elements or limitations beyond a respective allowable base claim and are also allowable.

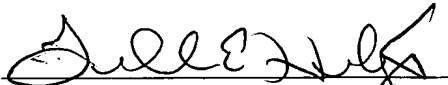
In view of the above remarks, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of Applicant's remarks, the claims are believed to be in condition for allowance. Reconsideration, withdrawal of the rejections, and passage of the case to issue is respectfully requested.

Respectfully submitted,

Date: 2 FEB 05

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